IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.19560 of 2000

Dated: 04-07-2007

Between:

1. Boggarapu Tripura Sundara Rao, s/o Balaguru Swamy and 3 others.

... Petitioners

and

1. The Collector and District Magistrate,
Prakasam District,
Ongole and 2 others.

... Respondents

ORDER:

Questioning the notification and draft declaration dated 01-05-1999 issued under Sections 4(1) and 6 of the Land Acquisition Act, 1894

(for short, 'the Act'), which were published on 03-05-1999 and 05-05-1999 respectively, petitioners approached this Court and filed the writ petition stating that they are small farmers and instead of acquiring the Government lands, which are very much available for the purpose of

construction of houses to weaker sections, respondents are acquiring their lands.

2. Heard learned counsel for the parties.

3. Evidently, enquiry as provided for Section 5-A of the Act was dispensed with invoking the provisions of sub-section (4) of Section 17 of the Act. However, by virtue of the interim orders passed by this Court,
all further proceedings including dispossession of petitioners from out of the lands in question are stayed. As the said acquisition is only for the purpose of providing house sites to weaker sections and as the same is also stayed by this Court, it cannot be said that there is such an urgency to dispense with the enquiry as contemplated under Section 5-A of the Act.

4. The notification issued under Section 4(1) of the Act is not contrary to law, but Section 6 of the Act provides for issuance of a draft declaration within one year from the date of notification under Section 4(1) of the Act. In such circumstances, even though the notification in question, dated
03-05-1999, issued under Section 4(1) of the Act is justified,
the issuance of draft declaration as provided for under Section 6 of the Act cannot be done at this stage. Hence, this Court has no option, but to quash the notification as well as the draft declaration issued under Sections 4(1) and 6 of the Act.

5. Accordingly, the writ petition is allowed and the notification and draft declaration issued under Sections 4(1) and 6 of the Act are set aside and respondents are directed to issue notification under Section 4(1) of the Act afresh and conduct enquiry as provided for under

Section 5-A of the Act. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.04-07-2007
GLV